S.B. Civil (Sales Tax) Revision No .257/2007
CTO Special Circle, Sri Ganganagar
vs
M/s. Uma Oil & General Mills

Date of order : 30.10.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.VK Mathur]
Mr.Rishab Sancheti], for the petitioner.
Mr.GR Goyal, for the respondent.

<><><>

Heard learned counsel for the parties.

The department's contention is that non-petitioner-assessee was granted certain benefits under the Rajasthan Sales Tax Incentive Scheme 1987 (hereinafter referred to as the Scheme of 1987). The assessee availed the benefit, but subsequently, it was found that assessee failed to maintain the requisite production and, therefore, it was a case of escapement of tax on the ground that assessee was liable to pay the tax as though no exemption was granted to the assessee.

According to learned counsel for the petitioner sub-clause (b) of condition 9 of the Scheme of 1987 clearly provides that assessing authority under the RST Act, 1954 having jurisdiction shall either suo motu or on receipt of an application in this behalf can proceed to to assess the tax assuming that no exemption was granted to the assessee in case, it is

found that the assessee has violated the condition of the exemption scheme which includes failing to maintain the production standard. It is submitted that in the scheme of 1987 and particular in sub-clause (b) of condition 9 of the Scheme of 1987 no limitation has been prescribed for passing any order in sub-clause(b) of condition 9 of the Scheme of 1987. The Tax Board committed error of law by holding that the assessment order was passed beyond the period of five years' limitation, which is the limitation prescribed under Section 10B and 12 of the Act of 1954.

I considered the submissions of learned counsel for the parties and perused the condition no.9(a) and (b) of the Scheme of 1987. Sub-clause (b) of condition 9 of the Scheme of 1987 clearly provides that in case there is any breach of condition mentioned in the exemption certificate then the case can be treated as case of escapement of tax. For assessment on account of escapement of tax, assessment order can be passed within the period as provided under Section 10B and 12 of the Act of 1954. Sub-clause (a) of condition 9 of the Scheme of 1987 clearly provides that an industry covered by the Incentive Scheme shall be subject to all the provisions of the RST Act, 1954, which certainly included Section 10B and 12 of the Act of 1954.

Therefore also, in view of sub-clause(a) of condition 9 of the Scheme of 1987 the assessment could have been made within limitation provided under Section 10B and 12 in the cases under the Act of 1954 and Section 30 of the Act of 1994.

In view of the above discussion, I do not find any merit in the writ petition and the same is hereby dismissed.

(PRAKASH TATIA), J.

c.p.goyal/-